

Notice of Allowability

Application No.

10/815,817

Examiner

Bernard E Souw

Applicant(s)

SAWAHATA ET AL.

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address--

All claims being allowable, PROSECUTION ON THE MERITS IS (OR REMAINS) CLOSED in this application. If not included herewith (or previously mailed), a Notice of Allowance (PTOL-85) or other appropriate communication will be mailed in due course. **THIS NOTICE OF ALLOWABILITY IS NOT A GRANT OF PATENT RIGHTS.** This application is subject to withdrawal from issue at the initiative of the Office or upon petition by the applicant. See 37 CFR 1.313 and MPEP 1308.

1. ☒ This communication is responsive to 04/02/2004.
2. ☒ The allowed claim(s) is/are 14-16.
3. ☒ The drawings filed on 02 April 2004 are accepted by the Examiner.
4. ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
 - a) ☒ All b) ☐ Some* c) ☐ None of the:
 1. ☒ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this national stage application from the International Bureau (PCT Rule 17.2(a)).

* Certified copies not received: _____.

Applicant has THREE MONTHS FROM THE "MAILING DATE" of this communication to file a reply complying with the requirements noted below. Failure to timely comply will result in ABANDONMENT of this application.
THIS THREE-MONTH PERIOD IS NOT EXTENDABLE.

5. ☐ A SUBSTITUTE OATH OR DECLARATION must be submitted. Note the attached EXAMINER'S AMENDMENT or NOTICE OF INFORMAL PATENT APPLICATION (PTO-152) which gives reason(s) why the oath or declaration is deficient.
 6. ☐ CORRECTED DRAWINGS (as "replacement sheets") must be submitted.
 - (a) ☐ including changes required by the Notice of Draftsperson's Patent Drawing Review (PTO-948) attached
 - 1) ☐ hereto or 2) ☐ to Paper No./Mail Date _____.
 - (b) ☐ including changes required by the attached Examiner's Amendment / Comment or in the Office action of Paper No./Mail Date _____.
- Identifying indicia such as the application number (see 37 CFR 1.84(c)) should be written on the drawings in the front (not the back) of each sheet. Replacement sheet(s) should be labeled as such in the header according to 37 CFR 1.121(d).**
7. ☐ DEPOSIT OF and/or INFORMATION about the deposit of BIOLOGICAL MATERIAL must be submitted. Note the attached Examiner's comment regarding REQUIREMENT FOR THE DEPOSIT OF BIOLOGICAL MATERIAL.

Attachment(s)

1. ☒ Notice of References Cited (PTO-892)
2. ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3. ☒ Information Disclosure Statements (PTO-1449 or PTO/SB/08),
Paper No./Mail Date 04/02/2004
4. ☐ Examiner's Comment Regarding Requirement for Deposit
of Biological Material
5. ☐ Notice of Informal Patent Application (PTO-152)
6. ☒ Interview Summary (PTO-413),
Paper No./Mail Date 09/07/2004.
7. ☒ Examiner's Amendment/Comment
8. ☒ Examiner's Statement of Reasons for Allowance
9. ☐ Other _____.

DETAILED ACTION

EXAMINER'S AMENDMENT

1. An examiner's amendment to the record appears below. Should the changes and/or additions be unacceptable to applicant, an amendment may be filed as provided by 37 CFR 1.312. To ensure consideration of such an amendment, it **MUST** be submitted no later than the payment of the issue fee.

Authorization for this Examiner's Amendment has been given during a phone conversation with the per se Applicant, Mr. Michael E. Fogarty, Reg. No. 36,139, on September 07, 2004.

(a) **In the specification:**

► On page 2 of the amended specification filed 04/02/2004, under "RELATED APPLICATION", line 3, after "U.S. Patent No.", prior to "(attorney)", insert **--6,740,877--**.

(b) **In the claims:**

► In claim 16, line 1, after "microscope", prior to "an X-ray", insert --,(a comma).

Priority

2. Acknowledgment is made of applicant's claim for foreign priority under 35 U.S.C. 119(a)-(d). The certified copy has been filed in parent Application No. 09/656,836, filed on 09/07/2000.

Preliminary Amendment

3. The Preliminary Amendment filed 04/02/2004 has been entered. This office action is made with all the amendments being fully considered.

The specification has been amended.

The drawing of Figure 2 has been amended.

Claims 1-13 have been cancelled.

New claims 14-16 have been added.

ALLOWANCE

4. Claims 14-16 are allowed.

Claims 14-16 are subsequently renumbered by the examiner to claims 1-3.

Reasons for Allowance

5. A scanning electron microscope comprising a provision for controlling the object lens so as to prevent reflected electrons from entering the X-ray detector when the low-magnification mode is set, as recited in claim 14, has neither been anticipated nor rendered obvious by any prior art.

6. A scanning electron microscope comprising an object lens that generates a magnetic field, with a provision for automatically changing the magnetic field in accordance with detection of the X-ray or the secondary electrons and prevents an

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incidence of reflected electrons on the X-ray detector, as recited in claim 15, has neither been anticipated nor rendered obvious by any prior art.

7. A scanning electron microscope comprising an objective lens for focusing a primary electron beam, or alternatively, for preventing an incidence of reflected electrons on the X-ray detector, wherein a parameter related to the object lens is adjusted automatically in accordance with a change of X-ray detection and secondary electron detection, as recited in claim 16, has neither been anticipated nor rendered obvious by any prior art.

8. Any comments considered necessary by applicant must be submitted no later than the payment of the issue fee and, to avoid processing delays, should preferably accompany the issue fee. Such submissions should be clearly labeled "Comments on Statement of Reasons for Allowance."

Communications

9. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Bernard E Souw whose telephone number is 571 272 2482. The examiner can normally be reached on Monday thru Friday, 9:00 am to 5:00 pm..


If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, John R Lee can be reached on 571 272 2477. The central fax phone

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number for the organization where this application or proceeding is assigned is (703) 872-9306 for regular communications as well as for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703 308 0956.

bes
September 7, 2004


JOHN R. LEE
SUPERVISORY PATENT EXAMINER
TECHNOLOGY CENTER 2800